IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE SIDE

CIVIL APPLICATION NO.1186 OF 2004
IN
APPEAL FROM ORDER NO.42 OF 2004
IN
B.C.C.C SUIT NO.3815 OF 1996

Khodu R. Shelangi & Ors. ... Applicants

V/s.

Cyrus K. Nagarwala ... Respondent

a/w
CIVIL APPLICATION NO.1190 OF 2004
IN
APPEAL FROM ORDER NO.48 OF 2004
IN
B.C.C.C SUIT NO.6215 OF 1997

Khodu R. Shelangi & Ors. ... Applicants

V/s.

Athappa Jogi & Anr. ... Respondents

Mr.S.J. Thaker for Applicants

CORAM: **SMT.NISHITA MHATRE, J.**

DATED: **DECEMBER 3, 2004**

P.C.:

. The applications before me have arisen because the Principal Judge of the City Civil Court has not assigned the two suits to any other Judge after the Judge Shri R.R. Gandhi had recused himself from the matters. Transfer applications had been made for transferring the suits from the Court of Judge Shri R.R. Gandhi to some other Court. After the applications were heard, but no orders were passed by the Principal Judge.

It appears that the Judge Shri R.R. Gandhi has recused himself of the matters. Thereafter, a writ petition was filed being Writ Petition No.7794 of 2004 challenging the order passed on the transfer applications. This Court (Bhosale, J.) while dismissing the writ petition has held that no ground was made out warranting interference by the High Court and further that it was always open to a learned Judge to recuse himself from the suit if he so desires.

2. Apparently, the Principal Judge of the City Civil Court is labouring under the mistaken assumption that once the transfer application has been disposed of, he cannot assign the matter to any other Judge if the learned Judge had recused himself.

3. The judgment which the Principal Judge has pointed in his report does not in any manner interfere with his administrative duties of assigning the matters to another Court once the Judge recuses himself of the same.

4. The Principal Judge is therefore directed to assign the suits to any Judge other than the one who has recused himself. The time to dispose of the suits is extended upto September, 2005.

5. Civil Applications are disposed of accordingly.